APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,512	10/20/2000	Joel E. Short	NOMDX.050A	7933

20995   7590   12/08/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
DUONG, THOMAS

ART UNIT	PAPER NUMBER
2445	

NOTIFICATION DATE	DELIVERY MODE
12/08/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

	Application No.	Applicant(s)
Office Action Summary	09/693,512	SHORT ET AL.
	Examiner	Art Unit	
	Thomas Duong	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>14 August 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>8, 10-15 and 17-18</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>8, 10-15 and 17-18</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>21 April 2004</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This office action is in response to the Applicants' After Non-Final Amendment filed on

August 14, 2009. *Claims 8, 10-15 and 17-18* are presented for further consideration and

examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 8 and 10-13 are rejected under *35 USC § 101* because the claims are not limited

to tangible embodiments since they do not claim physical articles or objects as part of

the claims to establish a statutory category as a machine or manufacture, and they are

clearly not to a process or composition of matter. As claimed, *"A gateway device that*

provides subscriber computers transparent network access" fails to fall within a statutory

category of invention; because the *"gateway device"* contains only software modules

such as a subscriber interface, an XML interface and an internal web server as

evidenced by the Applicants' Specification, *"the gateway device 12 includes an XML*

interface, also known as an XML parser 32, that is typically comprised of software"

(Specification, pg.11, lines 19-21) and *"The gateway device 12 therefore also includes a*

building section 44 that is also comprised of software" (Specification, pg.12, lines 20-21).

As such, the above claims are not limited to statutory subject matter and are, therefore,

non-statutory. Hence, in order to overcome this *35 USC § 101* rejection, the above

claims need to be amended to include only the physical computer media and not a

transmission media or other intangible or non-functional media.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

5.   *Claims 8, 10-15, and 17-18* are rejected under 35 U.S.C. 103(a) as being unpatentable

over Dutta et al. (US6615212B1) and in view of Meltzer et al. (US6226675B1).

6.   With regard to *claims 8 and 14*, Dutta discloses a gateway device that provides

subscriber computers transparent network access, the device comprising:

- *a subscriber interface for adapting to subscriber computers that are connected to*

  the gateway device to facilitate communications between the subscriber

  computers and at least one network; and (Dutta, col.7, lines 47-62)

  Dutta discloses, *"Transcoding framework 608 includes HTTP request transform*

  plugin 610 for converting HTTP request 604 received from client 602 into a

  modified HTTP request 612 compatible with originating server 614, where the

  requested content is located. As shown in FIG. 7, transcoding proxy server 606

  receives server response 702 in Extensible Markup Language (XML) data

  format. Transcoding framework 608 also includes XML to HTML transcoder

plugin 704. XML to HTML transcoder plugin 704 converts server response 702 from XML data format to an HTML data format and sends HTML data 706 to client 602 for processing". Hence, Dutta teaches of the transcoder framework 608 (i.e., Applicants' subscriber interface) located on the transcoding proxy server 606 (i.e., Applicants' gateway device) converting requests in one format to requests in a second format (i.e., Applicants' adapting to subscriber computers) and sending (i.e., Applicants' facilitating communications between) HTML data 706 to client 602 (i.e., Applicants' subscriber computers) from originating server 614 on a network (i.e., Applicants' at least one network).

- an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device, located at a network access point, supports communication involving the subscriber computers and the external devices without requiring the subscriber computers to support XML commands and responses (Dutta, col.7, lines 47-62)

Dutta discloses, "Transcoding framework 608 includes HTTP request transform plugin 610 for converting HTTP request 604 received from client 602 into a modified HTTP request 612 compatible with originating server 614, where the requested content is located. As shown in FIG. 7, transcoding proxy server 606 receives server response 702 in Extensible Markup Language (XML) data format. Transcoding framework 608 also includes XML to HTML transcoder plugin 704. XML to HTML transcoder plugin 704 converts server response 702 from XML data format to an HTML data format and sends HTML data 706 to client 602 for processing". Hence, Dutta teaches of the transcoder plugin 704 (i.e., Applicants' XML interface) located on the transcoding proxy server 606 (i.e.,

Applicants' gateway device located at a network access point) receiving (i.e.,

Applicants' communicating) responses from the originating server 614 (i.e.,

Applicants' external device), converting server responses 702 from XML data

format to an HTML data format (i.e., Applicants' via a series of XML commands

and responses), and sending (i.e., Applicants' supporting communications) the

resulting HTML data 706 to client 602 (i.e., Applicants' subscriber computers)

from originating server 614 (i.e., Applicants' external device). Since, the

responses from originating server 614 already converted to HTML format by the

transcoding proxy server, the client 602 (i.e., Applicants' subscriber computer)

does not need to support XML (i.e., Applicants' without requiring the subscriber

computers to support XML commands and responses).

- *an internal web server for communicating with both said XML interface and the*

  Internet to thereby facilitate XML-based communications between the gateway

  device and external devices connected to the Internet. (Dutta, col.7, lines 45-62)

  Dutta discloses, *"Turning now to FIGS. 6 and 7, there are shown block diagrams*

  illustrating the data flow through a prior art transcoding proxy server. In FIG. 6,

  client 602 sends HTTP request 604 to transcoding proxy server 606.

  Transcoding proxy server 606 includes transcoding framework 608 for converting

  requests in one format to requests in a second format. Transcoding framework

  608 includes HTTP request transform plugin 610 for converting HTTP request

  604 received from client 602 into a modified HTTP request 612 compatible with

  originating server 614, where the requested content is located. As shown in FIG.

  7, transcoding proxy server 606 receives server response 702 in Extensible

  Markup Language (XML) data format. Transcoding framework 608 also includes

XML to HTML transcoder plugin 704. XML to HTML transcoder plugin 704

converts server response 702 from XML data format to an HTML data format and

sends HTML data 706 to client 602 for processing". Hence, Dutta teaches of the

transcoder framework 608 (i.e., Applicants' XML interface) located on the

transcoding proxy server 606 (i.e., Applicants' internal web server) converting

requests in one format to requests in a second format and sending HTML data

706 (i.e., Applicants' facilitate XML-based communications) to client 602 (i.e.,

Applicants' external devices) from originating server 614 on a network (i.e.,

Applicants' at least one network).

However, Dutta does not explicitly disclose the details of the XML interface, that the

XML interface comprising a parser front end, a parser section responsive to the

parser front end and a building section for communicating with an external

device, wherein said parser front end determines the type of operation requested

by the external device;

Meltzer teaches,

- *an XML interface comprising a parser front end, a parser section responsive to*

  the parser front end and a building section for communicating with an external

  device, wherein said parser front end determines the type of operation requested

  by the external device; and (Meltzer, col.6, lines 40-48; col.78, lines 45-49)

  Meltzer discloses, *"In addition, the definitions of the transactions and the*

  definitions of the participant interfaces all comprise documents specified

  according to a technique compliant with XML or other standardized document

  expression language. At such market maker node, data comprising a document

  is received over a communication network. The document is parsed according to

the specifications to identify an input document in one or more transactions which accept the identified input document". Hence, Meltzer teaches of a market marker node receiving (i.e., Applicants' building section for communicating) an input document, parsing the document by a parser (implied) (i.e., Applicants' parser front end), translating the document from XML to another format by the interface (i.e., Applicants' XML interface), identifying (i.e., Applicants' determining) one or more transactions (i.e., Applicants' type of operation) from the parsed document from the originating participant node (i.e., Applicants' external device).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Meltzer with the teaching of Dutta to improve electronic commerce by enabling the translation of documents to facilitate interaction amongst diverse platforms of the trading partner networks.

7.   With regard to *claims 10-11 and 17-18,* Dutta and Meltzer disclose a gateway device that provides subscriber computers transparent network access (see *claims 8 and 14* rejection as detailed above).

- *wherein said parser section organizes elements parsed from at least one of an XML command and an XML response into separate XML parameters and passes at least some of the organized elements to a requested application.* (Meltzer, col.24, lines 18-22)

  Meltzer discloses, *"The application packages the information provided by the parser in an XML event object and sends it to as many event listeners as have*

identified themselves, as indicated by the block 502. The set of events 502 is completely parser independent".

- *wherein said parser section also nests the elements to be passed to the requested application within an application programming interface (API) wrapper.* (Meltzer, col.25, line 66 – col.26, line 4)

    Meltzer discloses, *"The JAVA to XML event generator 515 constitutes a JAVA listener and a JAVA event generator. It receives the stream of events 514 from the JAVA walker 512 and translates selected ones to present a JAVA object as an XML document. In the one preferred embodiment, the event generator 515 exploits the JAVA beans API".*

8.   With regard to *claims 12-13*, Dutta and Meltzer disclose a gateway device that provides subscriber computers transparent network access (see *claim 8* rejection as detailed above).

- *wherein said building section prepares responses to requests received by the gateway device.* (Meltzer, col.3, lines 39-45)

    Meltzer discloses, *"An output document is formed comprising the output of the transaction process, based on the definition of an output document in the stored specification. The output document is transmitted on the communication network, typically back to the source of the input document, or elsewhere as suits the needs of a particular type of transaction".*

- *wherein said building section assembles results returned by a requested application into an XML response.* (Meltzer, col.3, lines 39-45)

Meltzer discloses, *"An output document is formed comprising the output of the transaction process, based on the definition of an output document in the stored specification. The output document is transmitted on the communication network, typically back to the source of the input document, or elsewhere as suits the needs of a particular type of transaction".*

9.   With regard to <u>*claim 15*</u>, Dutta and Meltzer disclose a gateway device that provides subscriber computers transparent network access (see *claim 14* rejection as detailed above).

- *wherein receiving an XML command comprises receiving an XML command at the gateway device from a billing and content server.* (Meltzer, col.21, line 64 – col.22, line 2)

Meltzer discloses, *"Thus, the transaction process front end 304 in the example of FIG. 3 is coupled to commercial functions 305, database functions 306, other enterprise functions such as accounting and billing 307, and to the specific event listeners and processors 308 which are designed to respond to the events indicated by the parser".*

Response to Arguments

12.   Applicants' arguments with respect to *claims 8 and 14* have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Thomas Duong whose telephone number is 571/272-3911. The

examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the

examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava

can be reached on 571/272-7304. The fax phone numbers for the organization where

this application or proceeding is assigned are 571/273-8300 for regular communications

and 571/273-8300 for After Final communications.

/Thomas Duong/

Patent Examiner, Art Unit 2445

December 4, 2009

/Nabil El-Hady/

Supervisory Patent Examiner, Art Unit 4191